



# Outstanding National Resource Waters (Tier 3 Waters) Outreach

**Michelle Hale, Director, Division of Water**  
Alaska Department of Environmental Conservation  
Facilitator: Mike Walsh, Foraker Group

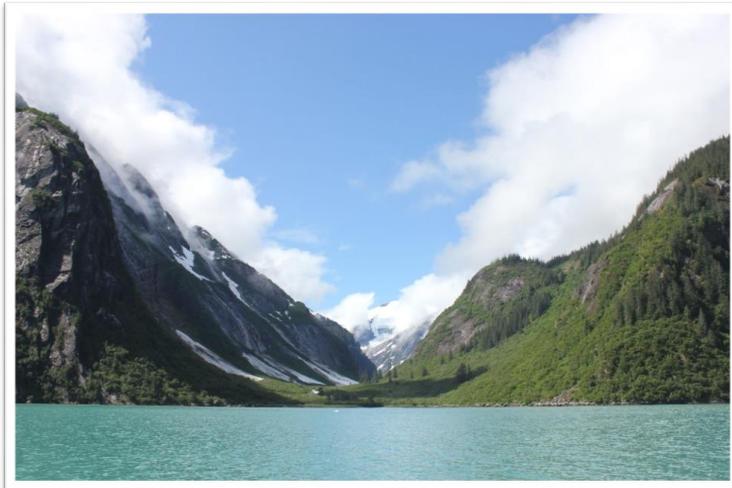
**March 20-23, 2017**

Juneau • Anchorage • Fairbanks • Teleconference



# Purpose

- Provide background on Outstanding National Resource Waters (Tier 3 Waters)
- Gain input and ideas on key questions





# Water Quality Standards and Antidegradation

The Clean Water Act and Federal Regulations (40 CFR §131.12) require states to have an antidegradation policy and implementation methods that:

- Protect existing uses
- Authorize the lowering of water quality (“degradation”) in high quality waters where necessary for social or economic importance
- Offer a mechanism to provide additional protection for water of exceptional ecological or recreational significance (ONRWs or Tier 3)



# What are Tiers 1, 2, and 3 in Alaska's Water Quality Standards





# What are Tiers 1, 2, and 3 in Alaska's Water Quality Standards

Per the Clean Water Act, Federal regulations, and Alaska's Water Quality Standards regulations [antidegradation policy](#) (18 AAC 70.015) three classifications, or "tiers," of waters are identified:

- **Tier 1** — waters for which not all water quality criteria are met. This can be due to naturally occurring constituents in the water, or can be due to human sources or activities.
- **Tier 2** — high quality waters, which include the vast majority of waters in Alaska. In these waters, water quality criteria are exceeded, *i.e.* the water quality is better than criteria.
- **Tier 3** — waters that are required to be preserved in their current status.



# Outstanding National Resource or Tier 3 Water

*40 CFR 131.12(a)(3):*

*“Where high quality waters constitute an outstanding National resource, such as waters of the National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.”*



# How are Tier 3 waters protected?

- Water quality must be “maintained and protected”
- **no additional degradation allowed**
- Applicable water quality standards are baseline water quality levels at the time of designation
- Discharges to Tier 3 water and tributaries
  - **temporary, short term, and limited**
  - Existing discharges at time of designation



# What are examples of Tier 3 waters in other states?

- Waters in parks, wildlife refuges or wilderness areas, special trout waters, federal Wild and Scenic Rivers or other unique waters
- California: Lake Tahoe and Mono Lake
- Montana: all waters in national parks
- Arizona: designated 22 waters
- Washington, Oregon, Idaho, and Nevada: no designations



# What waters have been nominated in Alaska?

- Chandalar River — Venetie
- Yakutat Forelands — Yakutat
- Kaktuli River — Dillingham
- Chilkat River — Haines



# Where we've been...

- 1997 — Antidegradation policy adopted under 18 AAC 70 Water Quality Standards regulations
- 2010 — Interim implementation methods adopted
- 2012 — Antidegradation Workgroup
- 2013 — Final Workgroup Report
- 2014 — Draft Regulations
- 2015 — Public Workshop
- 2016 — Legislation introduced, held
- 2017 — Public Workshops



# Developing a Tier 3 Process for Alaska

- Alaska is currently developing the process for the nomination and designation of Tier 3 waters.
- During the 2016 legislative session, the Governor introduced legislation (SB163 and HB283) to establish this Tier 3 nomination and designation process.
  - Bills were withdrawn to have more dialog with stakeholders and tribes.
- The process needs to work well for all Alaskans and for all waters of the state, now and in the future.



# Questions on possible nomination and designation processes

1. Who can nominate a water for Tier 3 designation?
  - And what kind of information should be submitted with the nomination?
2. What criteria will be applied before a water is eligible for Tier 3 designation?
3. Once the nomination is received, how is the nomination evaluated to determine that the water is a valid candidate for Tier 3 designation?
  - How will this evaluation process be paid for?
  - And, what is public process for Alaskans to weigh in on Tier 3 decision?
4. Who makes final decision that a water will be a Tier 3 water?



# 1. Nomination: Who can nominate?

- Language from original bill in 2016 (SB163)
  - The department shall accept nominations of water for designation as outstanding national resource water.
  - Any resident of the state may provide a nomination.
- Language from bill in 2016 (SB163) (amended):
  - The department shall accept from a resident of the state a nomination of water for designation as outstanding state resource water.

# 1. Nomination: Possible Nomination Information



- Geographic location, boundaries, etc.
- Land ownership adjacent to the proposed water
- Support for Tier 3 designation
- Explanation of why existing protection levels are not sufficient
- Possible alternatives to Tier 3 designation
- Outreach efforts in surrounding area, including level of support
- Cultural, economic, and social information about nominated water



## 2. Eligibility: Possible Tier 3 Criteria

To be eligible for Tier 3 designation, the water must have exceptional characteristics relative to other State of Alaska water, including one or more of the following:

- the water is in a relatively pristine condition, largely absent of human sources of degradation, and of exceptional value to the state in this condition;
- the water is of exceptional ecological, economic, or recreational significance; or
- the water is an exceptional and rare example or its type regardless of whether the water is considered high quality

# 3. Vetting: Possible Tier 3 Vetting Process



- Submittal completeness determination<sup>1</sup>
- Prioritization
- Public Comment Period(s)
- Hearing(s) — if necessary
- Agency Consultation
- Alternative protection analysis<sup>2</sup>
- Review and Recommendation<sup>3</sup>
- Timeframe or deadlines
- Final determination or designation

<sup>1</sup> by department or agency board

<sup>2</sup> e.g. other state "tools" that could provide the desired use protection

<sup>3</sup> by agency, board, or other



### 3. Vetting: Public Process

- What should public process be throughout the Tier 3 vetting and designation process?
- How should local vs. state concerns be balanced?

## 4. Options for Designation Authority



- Option 1: Legislative decision
- Option 2: Tier 3 Board
- Option 3: DEC or the Governor
- Option 4: Some hybrid or alternative



# Tier 3 Public Workshops

We'd like to invite you to participate in one of a series of public workshops to discuss the nomination process and designation options. Workshops will be hosted in the following locations:

- Juneau — Monday, March 20, 1-4pm
- Anchorage — Tuesday, March 21, 1-4pm
- Fairbanks — Wednesday, March 22, 9am-noon
- Statewide Teleconference — Thursday, March 23, 4-7pm
- Still tentative – Dillingham, May 2



# Tell us what you think!

- Attend a workshop
- Register through the website
- Submit comments through the website:

<http://dec.alaska.gov/water/wqsar/Antidegradation/Tiers123.html>

## TIER 3 PUBLIC WORKSHOPS

We'd like to invite you to participate in one of a series of public workshops to discuss the nomination process and designation options in the following locations:

### Juneau

Centennial Hall  
Egan Room  
1-4pm  
March 20, 2017

### Anchorage

Performing Arts  
Center Voth Hall  
1-4pm  
March 21, 2017

### Fairbanks

DEC Conference  
Room, 610  
University Drive  
9-noon  
March 22, 2017

### Statewide

Teleconference  
[Details](#)  
4-7pm  
March 23,  
2017

To register, [click here](#)

## TELL US WHAT YOU THINK!

We'd like to hear from you about how Alaska's nomination and designation process for Tier 3 waters should work. The process needs to work well for all Alaskans, for all waters of the state, now and in the future. The process should be: transparent; allow all Alaskans and Tribes to submit a nomination; provide ample opportunity for local and public input; provide thorough evaluation of the submitted information and vetting of a nomination; and provide a complete package on which to base a final determination.

Name:

Email Address:

Comments (max 500 characters):

Check the box below to enable the submit button



Questions?  
Thank you for your time!

Michelle Hale, Director  
Division of Water  
[Michelle.Hale@Alaska.gov](mailto:Michelle.Hale@Alaska.gov)  
(907) 465-4728